G. R. S. 59]

GENERAL AND REVENUE SECRETARIAT.

1913. 14
Legis)

(P-10)

File No. 6-13

Serial Nos. (1-3)

Papers Filed.

Month Sep. 13

SUBJECT.

Extent of applicability of the transfer of property Act, IV of 1882, in the State of Mysore.

PREVIOUS REFERENCES.	LATER REFERENCES.

M. Ghosal
19. 8. 14

G.R.S. 11]

1913-14

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

File No. 6-13

FILE HEADING.

Extent of applicability of the Transfer of Property Act, IV of 1882, in the State of Mysore with regard to equitable mortgages when the property is situated in Mysore territory.

From The Administrator General of Madras, Madras.

No. P. 1049 Dated 31/7/13 Received 3/8/13

Diary No.	Enclos.	Spare Copies.	Serial No.
413	—	—	1

BRIEF ABSTRACT OF LETTER.

Enquiries how far the Transfer of Property Act, 188 applies to the State of Mysore in regard to equitable mortgages by deposit of title-deeds when the property is situated in Mysore territory

NOTES AND ORDERS.

Asst. Secretary's order thereon

"Govt. Advocate may be consulted as to the reply".

Asst. S.P.R.

Subd.

3. The file may be sent unofficially to the Govt. Adv.

9/8/13

NOTES—First Sheet.

GPK—30,000—27-6-11

G.I.D.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 6 of 1913-14

Serial No.

U.O. No. 5 1913-14 dt. 9-8-13

U. O. No. 10 of 13-14 dt. 9/8/13

5

U.O. No. The Gen: and Rev: Secretariat

Dated

Forwarded unofficially to the Government Advocate for favour of opinion

By order

Sd/- [illegible]

for Secretary to Govt.

SW

Mortgage by deposit of title deeds is what is known in English Law as "Equitable Mortgage". Before the passing of the Transfer of Property Act in British India instances are not wanting in which Equitable mortgages were created in the mofussil in India and recognised by Courts as valid. At the time of the passing of the Transfer of Property Act there was a great deal of difference of opinion as to whether Equitable mortgages should at all be recognised as valid in British India and after much discussion the majority of the Select Committee — the Law Member dissenting — adopted the view that Equitable mortgages should be considered valid in

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Serial No.

India if they were made in the Presidency Towns, on the ground that such practice of raising money had long been established in those Towns and any attempt to disturb it would cause much inconvenience." The Transfer of Property act is not in force in Mysore, there is no Statute Law in this State forbidding the creation of such a mortgage, nor is there any law here established either by Custom or by judicial decisions recognising the validity of such mortgages. Under such circumstances in my opinion, a rule of English Law founded in England under conditions different from those prevailing here and in Calcutta in the Transfer of Property act, to prevail in a limited area where it was considered inexpedient to disturb a long Course of practice ought not to be made applicable in Mysore

15.8.13.

Subbarayan

Note—Contn. sheet.

GPE—65,000—17-C-12.

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 6 of 1913 - 14

Serial No.	
	Received in the Branch 19/8/13
6	Subd. (58) NM 20/8/13
7	Put up draft reply as in the last portion of the Govt Advocate's note SDR 24/8
8	Submitted with a draft as ordered GVS 21-8 (58) NM 23/8/13
9	(Dy Secy) SDR 23/8 The draft suggested will not do. Please see my blue pencil remarks thereon. Duee 27/8
	Flag M (10) Please also see the routine note SDR 27/8
11	Submitted with a revised draft as ordered (vide routine note Flag M) (58) NM 1/9/13
	(Dy Secy) SDR Draft appd by 1st Councillor 5/9/13
	(1st Councillor) Draft appd by 1st Councillor 5.9.13.
	Issue 6/9

NOTE—Contn. sheet.

GPE—65,000—17-C-12.

G. R. S. 12]

General and Revenue Secretariat.

Lis File No. 6 of 1913

Serial No.	
2.	To the Admr-General Madras no 3901 dy 12-9-13
	Forwarding for information copy of the note of the Govt Advocate in dispatch
3.	From the same officer - no P 1206 dy 18 Sept 13
	Acknowledging the receipt of the proceeding -
	This may be filed

24/4/13

18/8

NOTE—Contn. sheet.

GPE—65,000—17-C-12.

Letters should be headed with the name of the Estate.

Separate letters should be written regarding separate Estates.

TELEPHONE No. 68.

No. 1049

Enc.

ADMINISTRATOR GENERAL'S OFFICE,
HIGH COURT HOUSE.

Madras, 31st July 1913.

DIARY No. 2413

1913-1914
SECTION Legn
6-13
1

FROM

C. E. Odgers, Esq., M. A., B.C.L., Barrister-at-Law,
Administrator General of Madras.

TO The Secretary,
Legislative Department,
M Y S O R E.

Sir,

I have the honor to request that you will inform me if the provisions of the Transfer of Property Act (British India Act IV of 1882) are applied in the State of Mysore to the case of mortgages by deposit of title deeds (Cf: S.59 of that Act) or whether the general principles of the English Law are applied. am aware that there is no Transfer of Property Act in Mysore and a question has arisen in my office touching the application of the law as to equitable mortgages by deposit of title deeds where the property affected is situated in Mysore Territory. I may add that the parties concerned are all European British subjects. I shall be greatly obliged by any information on this subject.

I have the honor to be,
Sir,
Your most obedient servant,

Administrator General of Madras.

Forwarding a copy of the note made by the Govt. Advocate on the subject of the law applicable to equitable mortgages by deposit of title deeds where the Revised Draft Legislation in the Mysore Territories is silent.

G. R. S. 26]

519 413

File 6-13

Serial No. 2

Diary No. of letter replied to

No. J 901

General and Revenue Secretariat

( )

, *the* 191 .

To

The administrator-General

of Madras

Date of issue 12-9-13.

Signed by Dr. S. P. Rajagopala Chetti

Sir

In reply to your letter No. 1049 dated 31st July 1913 enquiring whether ~~and to what extent~~ the provisions of the Transfer of Property Act, 1882, regarding equitable mortgages by deposit of title deeds or the English Law thereon, are applicable to such

over.

SUBJECT.

mortgages when the property is situate in Mysore territory, I am directed to forward for your information a copy of the a note made by the Government Advocate in Mysore on the point.

I have &c.

Sd/

for Secretary to Govt. Revn 5/9

5/9/13

NLL.

List of enclosures,

Copied by

Examined by

GPB—25,000—8-8-11.

Letters should be headed with the name of the Estate.

Separate letters should be written regarding separate Estates.

TELEPHONE No. 68.

No. D 1206

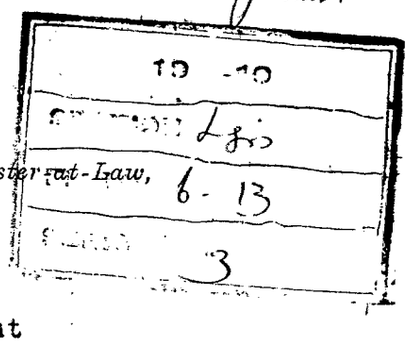
Enc. Nil

ADMINISTRATOR GENERAL'S OFFICE,
HIGH COURT HOUSE.

Madras, 18th September 1913.

DIARY No. J.1011

Estate of H.H.Stephenson.



FROM

C. E. Odgers, Esq., M. A., B. C. L., Barrister-at-Law,
Administrator General of Madras.

TO,

The Secretary to the Government
of H.H. the Maharajah of Mysore,
General and Revenue Departments,
Bangalore.

Sir,

I have the honour to acknowledge receipt of your letter No.J.901/Legis.6-13-2 dated September 1913, with enclosure and to thank you for the same.

I have the honour to be,
Sir,
Your most obedient servant,

Administrator General of Madras.